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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,464	06/25/2003	Louis I. Ndife	6953US01	3285

25755 7590 05/21/2004

ROSS PRODUCTS DIVISION OF ABBOTT LABORATORIES  
DEPARTMENT 108140-DS/1  
625 CLEVELAND AVENUE  
COLUMBUS, OH 43215-1724

EXAMINER
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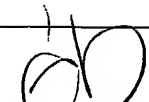
PRATT, HELEN F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/603,464	Applicant(s) NDIFE ET AL.	
	Examiner Helen F. Pratt	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in step (d) in referring to the specification, for limitations, which should be in the claim. It is not known what is intended by just referring to the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brochner (GB 894,001) in view of Ozalvo et al. (WO 03/077664 A1).

Brochner disclose a milk tablet, which contains protein, carbohydrate and fat in the claimed amounts (page 1, lines 80-90). Claim 1 differs from the reference in the amount of time that it takes for the tablet to dissolve. However, it is seen at this time that the tablet dissolves in the claimed amount of time because the composition is the same. Applicants admit that various known baby formulas can be used (page 3, lines

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12-15, page 5, lines 28-35, pages 6 - 8) and that tabulating procedures are known (page 11, lines 20-35). Also, Ozalvo et al. disclose that it is known to make a tablet from baby formula, which readily dissolve in water (abstract and page 11, lines 3-5). Nothing is seen at this time that the compressing weight of 0.25 tons would not provide a tablet that would dissolve in 60 seconds. Therefore, it would have been obvious to substitute other dry milk type formulas such as baby formula for the milk formula of the reference particularly since the amounts of ingredients are the same.

Claims 2-4 further require particular amounts of protein, fat and carbohydrate, which are still within the claimed ranges of Brochner (page 1, lines 80-90). Therefore, it would have been obvious to make a baby formula as claimed.

Claims 5-10 further require particular ingredients in the composition. However, as applicants say that these compositions are known, as above, the compositions would contain the particular ingredients. Therefore, it would have been obvious to use known ingredients in the claimed compositions.

Claim 11 further requires dissolving the tablet and feeding the resulting formula to the infant. The claimed composition has been disclosed above. If the composition is for feeding infants, then it would have been obvious to dissolve the tablet in water and feed it to an infant as that is the intended use of the tablet. Therefore, it would have been obvious to use known baby formulas in tablet form to feed to an infant.

Claim 12 further requires a package and directions for using the tablets. Packaging with directions is well known as in any packaged material. Also, Ozalvo et al. disclose a dispenser for holding the tablets, and a package, and directions (page 9,

lines 5-30 and page 10, lines 1-15). The baby formula has been shown as known, therefore it would have been obvious to package the composition as disclosed above and to include directions for its use.

The further limitations of claims 13-15 have been disclosed above and are obvious for those reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

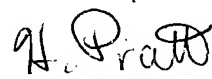
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HP 5-19-04

  
**HELEN PRATT**  
**PRIMARY EXAMINER**